

**§ 385.9 Determination of a safety rating.**

(a) Following a compliance review of a motor carrier operation, the FHWA, using the factors prescribed in § 385.7 as computed under the Safety Fitness Rating Methodology set forth in appendix B of this part, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standard set forth in § 385.5, and assign a safety rating accordingly.

(b) Unless otherwise specifically provided in this part, a safety rating will be issued to a motor carrier within 30 days following the completion of a compliance review.

[62 FR 60042, Nov. 6, 1997]

**§ 385.11 Notification of a safety rating.**

(a) Except as provided elsewhere in this section, written notification of the safety rating will be provided to a motor carrier as soon as practicable after assignment of the rating, but not later than 30 days after the review that produced the rating.

(b) Before a safety rating of *unsatisfactory* or *conditional*, is assigned to any motor carrier, the FHWA will issue a notice of proposed safety rating. The notice of proposed safety rating will list the deficiencies discovered during the review of the motor carrier's operations, for which corrective actions must be taken. A proposed *conditional* safety rating (which is an improvement of an existing *unsatisfactory* safety rating) becomes effective as soon as it issued from Washington, D.C., and the carrier may also avail itself of relief under the § 385.15, Administrative Review and § 385.17, Change to safety rating based on corrective actions.

(c) A notice of a proposed safety rating of *unsatisfactory* will indicate that, if the *unsatisfactory* rating becomes final, the motor carrier will be subject to the provisions of § 385.13, which prohibit motor carriers rated *unsatisfactory* from transporting hazardous materials or passengers, and other consequences that may result from such rating.

(d) Except as provided in § 385.17, a proposed safety rating issued pursuant to paragraph (b) of this section will be-

come the motor carrier's final safety rating 45 days after the date the notice of proposed safety rating is received by the motor carrier.

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**§ 385.13 Unsatisfactory rated motor carriers—prohibition on transportation of hazardous materials and passengers; ineligibility for Federal contracts.**

(a) A motor carrier rated *unsatisfactory* is prohibited from operating a commercial motor vehicle to transport—

(1) Hazardous materials for which vehicle placarding is required pursuant to part 172 of chapter 1 of this title; or

(2) More than 15 passengers, including the driver.

(b) A motor carrier subject to the provisions of paragraph (a) of this section is ineligible to contract or subcontract with any Federal agency for transportation of the property or passengers referred to in paragraphs (a)(1) and (a)(2) of this section.

(c) *Penalties.* When a carrier subject to the prohibitions in paragraph (a) of this section is known to transport the property or passengers referred to therein, an order will be issued placing those operations out of service. Any motor carrier that operates commercial motor vehicles in violation of this section will be subject to the penalty provisions listed in part 386 of this chapter.

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**§ 385.15 Administrative review.**

(a) Within the 45 day notice period provided in § 385.11(d), or within 45 days after denial of a request for a change in rating as provided in § 385.17(g), the motor carrier may petition the FHWA for administrative review of a proposed or final safety rating by submitting a written request to the Director, Office of Motor Carrier Field Operations, 400 Seventh Street, SW., Washington DC 20590.

(b) The petition must state why the proposed safety rating is believed to be in error and list all factual and procedural issues in dispute. The petition may be accompanied by any information or documents the motor carrier is